IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 800 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SANSKRUTI PRATISHTHAN - Petitioner(s)
Versus
AMC & 2 - Respondent(s)

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Appearance :
MRS KETTY A MEHTA for Petitioner(s) : 1,
MR PRASHANT G DESAI for Respondent(s) : 1 - 2.
RULE SERVED BY DS for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 19/03/2007

ORAL JUDGMENT

1. The petitioner has preferred the petition for the appropriate writ for directing respondent Nos.1 and 2 to abide by the decision taken by the General Body in its

meeting dated 29.12.195 and it is further prayed to direct the respondent to hand over peaceful possession of the land of Final Plot No.360/2 of T.P.Scheme No.3 at Mithakhali, Ahmedabad to the petitioner trust and to direct the respondents to remove lock placed on the gate of the said property.

2. I have heard Mrs.Mehta for the petitioner and Mr.Desai for the respondent Corporation. Respondent No.3 is served, but nobody has appeared on behalf of respondent No.3

3. Upon hearing the learned counsels appearing for both the sides, it appears that as per the petitioner, initially the plot in question was given by the Corporation to respondent No.3 Association and respondent No.3 Association did make some construction, but it was not fully made nor the plot in question was utilized for the purposes of the Sports Complex. Ultimately, respondent No.3 in association with the petitioner Trust agreed to hand over the possession of the plot for its development by the petitioner and as per the agreement, the petitioner had to make the construction within two years and thereafter, the possession was to be given back to the Corporation for management and in the management, the representative of the petitioner as well as of

respondent No.3 were to be included.

4. It appears that there was dispute on the part of the Corporation with the petitioner in not complying with the condition of completing the construction, whereas as per the petitioner, steps were being taken, but the Commissioner of the Corporation in contravention to the agreement and without there being authority of resolution of the Standing Committee, exercised power of taking over of the possession *ex parte* and applied lock and seal and at that stage, the present petition was preferred.

5. The learned counsels appearing for both the sides did raise various contentions on the aspects of legality and validity of the action. However, after some arguments, upon the quarry was put to the Corporation by the Court, with a view to see that the plot in question can actually be used for sports complex at the earliest and in the management, representative of the petitioner and of respondent No.3 can be included, keeping in view the larger public interest to see that the residents of the area are made available with the facility of the sports complex and the property may not remain idle for indefinite period on account of litigation of either side. In response thereto, it was also submitted by the Corporation that even otherwise also, as the property has

remained un-utilized, the complaints were received by the Corporation that the possession is being disturbed by certain disgruntle elements and therefore, the Corporation is desirous to use the plot for sports complex at the earliest.

6. After some deliberation, the learned counsel appearing for the Corporation, Mr.Desai did put the matter before the Corporation and ultimately, Mr.Desai has placed on record the resolution of the Standing Committee of the Corporation dated 15.03.2007, whereby the Corporation has agreed that the plot in question should be used and developed for sports complex and in the management committee, which may be constituted for management of the said complex, representative of each, i.e. petitioner Trust and respondent No.3 Association are permitted to be nominated.

7. In view of the above, it appears that the grievance of the petitioner gets substantially satisfied on the aspects of utilization of the plot for sports complex and inclusion of one representative of the petitioner Trust in the management committee while the said complex is run and managed by the Corporation.

8. Mrs.Mehta, learned counsel appearing for the petitioner declared before the Court that in view of the

resolution of the Standing Committee, the petitioner is not desirous to seek any further order. However, she submitted that the Corporation may be directed to comply with the resolution passed by the Standing Committee.

9. Mr.Desai, learned counsel appearing for the Corporation did submit that as such the Corporation has passed the resolution and therefore, even otherwise also, the Corporation is expected to act as per the resolution and for direction, he has left the matter to the Court.

10. Under the above circumstances, it appears that when the Corporation has passed the resolution, even otherwise also, it is bound by such resolution. Further, as declared on behalf of the petitioner and recorded hereinabove, the resolution substantially takes care of the grievance raised by the petitioner. Hence, with a view to put an end to the litigation and with a view to ensure that the residents of the area are provided the facility of sports complex at the earliest, if a direction is given by this Court, the same would meet with ends of justice.

11. Hence, I find that following direction deserves to be issued:

(a)The Corporation shall abide by and act as per

resolution No.1507 dated 15.03.2007 of the Standing Committee, which is placed on record.

In view of the aforesaid direction, the grievance of the petitioner would not survive. The petition is disposed in terms of the aforesaid direction. Rule is made absolute to the aforesaid extent with no order as to costs. Interim relief is vacated.

(JAYANT PATEL, J.)

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